

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE

v.

JOSE VASQUEZ,

Defendant.

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I.D. #0004009054

Submitted: January 18, 2006

Decided: February 28, 2006

O R D E R

This 28th day of February 2006, upon consideration of Defendant's *Pro Se* Motion for Postconviction Relief, it appears that:

1. On June 4, 2001, Defendant, Jose Vasquez, pled guilty to one count of Continuous Sexual Abuse of a Child, 11 Del. C. § 778 and one count of Failure to Register as a Sex Offender, in violation of 11 Del. C. §4120.

2. On September 7, 2001, Vasquez was sentenced to Level 5 incarceration for twenty years, suspended after serving fourteen years for probation on the charge of Continuous Sexual Abuse of a Child. On the charge of Failure to Register as a Sex Offender, Vasquez was sentenced to one year at Level 5, suspended for consecutive probation.

3. On November 2, 2005, Vasquez filed this motion for postconviction relief alleging he was afforded ineffective assistance of counsel, in that he was coerced to enter a guilty

plea.¹ Vasquez now seeks to withdraw his guilty plea.

4. With certain exception, “a motion for postconviction relief may not be filed more than three years after the judgment of conviction is final or, if it asserts a retroactively applicable right that is newly recognized after the judgment of conviction is final, more than three years after the right is first recognized by the Supreme Court of Delaware or by the United States Supreme Court.”²

5. Vasquez’s motion was filed on November 2, 2005, more than three years after his judgement of conviction became final.³ Accordingly, his claim is time-barred under Superior Court Criminal Rule 61 (i)(1). His alleged basis for relief does not constitute a retroactively applicable right which would extend the time limitation.

6. Vasquez’s motion for postconviction relief is SUMMARILY DISMISSED.

IT IS SO ORDERED.

The Honorable Susan C. Del Pesco

Original to Prothonotary

xc: Investigative Services File

Jose Vasquez, Delaware Correctional Center

¹ Vasquez contends that defense counsel failed to investigate and develop mitigating evidence; overlooked challenging the existence of probable cause, arrest and detention; knowingly allowed an indictment which was without support of physical or scientific evidence; neglected to inform defendant of the prosecution’s burden of production; failed to produce mitigating evidence such as DNA. and other scientific reports; and forced him to accept a guilty plea with threats and promises of being found guilty at trial and spending the rest of his life incarcerated.

² Super. Ct. Crim. R. 61(i)(1)

³ Vasquez’s conviction became final upon entering a guilty plea on June 4, 2001.